

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

FUJI 19.116 (100794-00057)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/005,988

Filed

October 29, 2001

First Named Inventor

Hideyasu KANEMAKI

Art Unit

2451

Examiner

Nghi V. Tran

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Dexter T. Chang/

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

Dexter T. Chang

Signature

Typed or printed name

☒ attorney or agent of record.

Registration number 44071

(212) 940-6384

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

June 3, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

**Attorney Docket No.: 100794-00057 (FUJI 19.116)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s): Hideyasu KANEMAKI et al.  
Confirmation No.: 9354  
Serial No.: 10/005,988  
Filed: October 29, 2001  
Title: **METHOD AND DEVICE FOR RESERVING TRANSMISSION  
BAND ON INTERNET**  
Examiner: Nghi V. Tran  
Group Art Unit: 2451

June 3, 2009

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

SIR:

In connection with the Pre-Appeal Brief Request for Review submitted herewith and in response to the final Office Action dated January 7, 2009, Applicants request a panel review to determine whether the Examiner has failed to properly establish bases for § 103 rejections of pending claims 1-18 and 26-27 in the subject application. And, in support thereof, Applicants respectfully submit the following:

**REMARKS**

Claims 19-25 have been canceled. Claims 1-18 and 26-27 remain pending in the application.

Claims 1-5, 9-18 and 26-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,278,712 to Takihiro et al. in view of U.S. Patent No. 6,708,209 to Ebata et al.; and claims 6-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Takihiro et al. in view of Ebata et al., and further in view of U.S. Patent No. 6,336,129 to Ise et al. Applicants respectfully traverse the rejections.

The Examiner cited Takihiro et al. as allegedly disclosing the main features of the claimed invention, and relied upon Ebata et al. as a combining reference that allegedly suggests the remaining claimed IP address searching, user policy transmitting, and charging data features, which features the Examiner conceded were absent from the disclosure of Takihiro et al. Page 4, line 3 et seq. of the Office Action.

In particular, the Examiner cited Figs. 26, 29, and 37 and their corresponding description in Takihiro et al. as allegedly showing “sales department’s video server 520...requesting a resource management server 200...to reserve [a] transmission band.” Page 3, lines 7-14; page 13, lines 5-11; page 15, lines 6-10; and page 15, line 17 to page 16, line 4 of the Office Action.

According to col. 24, lines 20-36 of Takihiro et al., however, *a user of the user equipment A or B (210-A or 210-B)* shown in Fig. 26 requests the resource management server 200 to reserve a resource necessary for communications by inputting, among other parameters, the communication destination information 520. Thus, contrary to the Examiner’s contentions, Takihiro et al., as cited and relied upon by the Examiner—and, correspondingly, the proposed

combination of Takihiro et al. and Ebata et al.—at least fail to disclose or suggest the claimed feature of a content server requesting an intermediary server to reserve a transmission band.

The Examiner cited “COMMUNICATION BAND 1.5 Mbps 570” shown in Fig. 29 of Takihiro et al. as alleged suggestion of the claimed feature of a content server requesting an intermediary server to reserve a transmission band (“requested band”). Page 3, lines 11-12; page 13, lines 9-10; page 15, lines 7-8 and 18-19; and page 16, lines 2-3 of the Office Action.

And, again, according to column 24, lines 20-24 of Takihiro et al., Fig. 29 merely shows a resource reservation request window on which a user of the user equipment inputs desired reservation data to reserve a resource. The “communication destination 520 (SALES DEPARTMENT’S DEPARTMENT VIDEO SERVER)” and the “communication band 570 (1.5 Mbps)” in Fig. 29, which the Examiner relied upon as alleged disclosure of “a content server” and “a requested band,” respectively, are, indeed, reservation data input or specified by the user. Thus, contrary to the Examiner’s assertions, Takihiro et al. at least fail to teach or suggest the “communication destination 520 (SALES DEPARTMENT’S DEPARTMENT VIDEO SERVER)” requesting the resource management server 200, which the Examiner equated with the claimed “intermediary server,” to reserve the transmission band. Takihiro et al. clearly state at column 24, lines 21-25:

“When the user of the user equipment reserves a resource, the user inputs desired reservation data on the resource reservation request window. The inputted data is sent to the resource management server and is approved or refused by the determination of the resource management server.” (Emphasis added)

Further, Takihiro et al. also describe at column 24, lines 51-52:

“Consequently, the end user can easily reserve a necessary communication resource.” (Emphasis added)

Thus, according to Takihiro et al., it is not the communication destination 520 (SALES DEPARTMENT'S DEPARTMENT VIDEO SERVER) but the user of the user equipment that requests the resource management server to reserve a resource.

In other words, even assuming, arguendo, that it would have been obvious to one skilled in the art at the time the claimed invention was made to combine Takihiro et al. and Ebata et al., such a combination would still have failed to disclose or suggest,

“[a] method of reserving a transmission band of a transmission line for transmitting data via a plurality of Internet service providers on the Internet between a content server and a terminal, the method comprising the steps of:

(a) the content server requesting an intermediary server to reserve the transmission band by transmitting a user policy that includes an ordering number, a requested band, a reservation start date and time, and a reservation end date and time; and

(b) the intermediary server reserving the transmission band for the content server and the terminal,

wherein the reserving step further includes the steps of:

receiving the user policy;

storing the received user policy;

searching for IP addresses of policy servers of the plurality of Internet service providers;

transmitting the user policy to each policy server corresponding to each of the plurality of Internet service providers, said each policy server storing the transmitted user policy;

receiving a band reservation result from each corresponding policy server;

determining whether the requested band reservation is confirmed by the band reservation results; and

transmitting the band reservation results to the content server, and

wherein charging data, for charging one or more of a transmitter and a receiver of said data for transmission quality assurance per said plurality of Internet service providers, is constructed at one or more of said content server, said intermediary server, and said policy server,” as recited in claim 1. (Emphasis added)

Accordingly, Applicants respectfully submit that claim 1, together with claims 2-5 and 9-18 dependent therefrom, is patentable over Takihiro et al. and Ebata et al., separately and in combination, for at least the foregoing reasons. Claims 26-27 incorporate features that correspond to those of claim 1 cited above, and are, therefore, patentable over the cited references for at least the same reasons. The Examiner relied upon Ise et al. to specifically address the additional features recited in claims 6-8. As such, a further combination with Ise et al. would still have failed to cure the above-described deficiencies of Takihiro et al. and Ebata et al., even assuming, *arguendo*, that such a further combination would have been obvious to one skilled in the art at the time the claimed invention was made. Accordingly, Applicants respectfully submit that claims 6-8, which depend from claim 1, are patentable over the cited references for at least the above-stated reasons.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

/Dexter T. Chang/  
Dexter T. Chang  
Reg. No. 44,071

CUSTOMER NUMBER 026304  
Telephone: (212) 940-6384  
Fax: (212) 940-8986 or 8987  
Docket No.: 100794-00057 (FUJI 19.116)  
DTC:tb